

September 3, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.,  
Washington, DC 20554

Re:

In the Matter of Implementation of Section 304 of the Telecommunication Act of 1996 and Commercial Availability of Navigation Devices, CS Docket No. 97-80

Compatibility Between Cable Systems and Consumer Electronics Equipment, PP Docket No. 00-67

Notice of Oral and Written Ex Parte Presentation

Dear Ms. Dortch:

On Tuesday, September 2, 2003, Jeffrey Lawrence and Peter Pitsch of Intel Corporation met in separate meetings with Paul Gallant of Chairman Powell's office, Anthony Dale of Commissioner Kevin Martin's office and with FCC staffers, Erin Boone, Rick Chessen, Bill Johnson, Susan Mort, Mary Beth Murphy, Amy Nathan, and Robert Pepper. Mssrs. Lawrence and Pitsch discussed the above-referenced "cable plug-and play" proceedings including the CEA-MSO MOU and associated DFast License and proposed regulations for unidirectional devices (collectively, Unidirectional Plug-n-Play), as well as the status generally of ongoing discussions regarding the bi-directional phase of cable plug and play (Bi-directional Plug and Play). During the course of the discussion, they presented the following Intel views.

1. Although the MOU has substantial problems that the Commission should require the appropriate parties to address, Intel believes that approval of the MOU is a necessary first step to realizing a competitive market for navigation devices, and that the Commission should expeditiously approve this agreement to make the DFast license available and accelerate the deployment of POD and HOST devices.

2. Intel welcomes a cable plug and play scheme that opens the door to a wide variety of devices and technology innovations by giving all product and technology providers the right to attach their devices to cable television networks (only limiting that right to prevent harm to the network or theft of service). The competitive retail market for navigation devices envisioned by Congress is an essential element in ensuring a

competitive market and ultimately ‘consumer choice’ in the rapidly evolving digital home, where a broad array of intelligent devices can exchange premium entertainment content in an interoperable protected networked environment.

3. In its decision, the Commission should make clear to the parties to the MOU that they must work with the IT industry to address the important process and substantive concerns that Intel and other IT companies have raised. These concerns include (i) full IT Industry participation in remaining aspects of the ‘unidirectional’ negotiations and all aspects of the ‘bi-directional’ negotiations, (ii) explicit recognition that PCs and other open platform products are full participants in Unidirectional Plug and Play<sup>1</sup> as well as Bi-directional Plug and Play, (iii) clarifications with respect to self certification, and (iv) expanding the list of approved digital outputs. Intel believes that most, if not all, of these issues can be addressed through the private DFast License, but that the Commission should oversee and take action to bring the parties to the table to negotiate in good faith. The Commission should establish an aggressive timeline (90 days) for the cable industry, in collaboration with leading IT companies, to address and report progress on these issues back to the Commission.

- *Direct Participation.* Intel and other relevant parties were excluded from active participation in the private negotiations that resulted in the MOU, negotiations that continue to this day to define the test suite and presumably other details of unidirectional device qualification and certification. Intel has asked to be included in the test suite and other discussions but has not been invited. Intel asked the Commission to help it remove those barriers to entry, both with respect to completion of the unidirectional test suite and certification details, and with respect to participation in the bi-directional discussions. Although Intel has purportedly been invited to participate in the bi-directional talks, several months have passed and we have yet to participate in a single meeting. Ongoing discussions are not open to the public, there have been no agendas, and it is unclear how best to proceed. We believe the Commission should issue strong guidance that will remedy this problem.
- *Self-certification.* Intel supports the principle of self-certification, which is standard practice in the IT industry and should become the standard certification practice for both Unidirectional and Bidirectional Cable Plug and Play. Self certification removes barriers to product entry and innovation, and should be accommodated to the fullest extent possible. In any event, neither the certification process nor the development of the test suite should be under the control of any single industry or exclude an entire industry. The most straight forward fix is to simply permit all non-television implementations to self certify against the agreed unidirectional test suite. If the Commission concludes that

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<sup>1</sup> As discussed in other Intel filings, an obvious example here is requiring the definition of “Unidirectional Device” in the DFast License to be revised in order to clarify that PC implementations are not excluded from being “Unidirectional Devices” on the basis that PCs are “capable” of using the cable return path.

prototype testing is required for IT devices as contemplated in the proposed regulations, it should clarify that prototype testing is a one time event per manufacturer, and not an ongoing model by model process that is wholly incompatible with IT business practices, and that all certification subsequent to the prototype is self-certification. This result is consistent with the language of the proposed regulation. Further, the Commission should direct the appropriate parties to work with the IT Industry to clarify all other particulars of the prototype certification process in a mutually agreeable manner. Finally, the commission should make it clear that it expects prompt and objective action (e.g., 90 days) on any request for prototype certification.

- *Unidirectional Test Suite.* As indicated above, the parties to the MOU are apparently still working on the test suite by which all unidirectional devices will be tested for harm to the network. Simple fairness demands that the IT industry be given an adequate and ample opportunity to participate in the development of that test suite. The Commission should require those discussions to be opened up to the IT industry immediately.
- *Digital Outputs.* Intel supports expanding the list of approved digital outputs to include the broadest number of options, including commercially viable DRM technologies, and believes that the Commission should require timely progress on this important point. In this context, the digital output approval process in the DFast license should not be a barrier to innovation, and we encourage the Commission to assure that the technology approval process is open, well documented and not unduly biased by any single industry. The Commission should make it clear that it expects prompt and objective action on any request for approving new digital outputs, including commercially viable DRM technologies, and new mappings for already approved technologies (for example, DTCP should be approved not only for 1394, but other transports as well as appears to now be the case in the PHILA license).

Unidirectional Plug and Play must only be the first step toward realizing Congress' vision for a competitive retail market for navigation devices; it cannot be the last step. Intel's support for the Commission acting on this proposal is conditioned on this important assumption, with the full expectation that Bi-directional Plug and Play will follow based on the full participation of the IT Industry. Similarly, the DFast License must not become a static "as is" offering, but one that CableLabs and its members are willing to evolve on an ongoing basis to meet the legitimate needs of its licensees through private commercial negotiations.

In conclusion, Intel believes that the Unidirectional Plug and Play proposal represents a positive step forward, but that many of the concerns raised by Intel and others need to be addressed in a meaningful way. This can in large measure be accomplished through private agreements (principally through clarifications and enhancements to the DFast License), but that the Commission must require the parties to address these concerns. In this context, we recommend that the Commission provide

ongoing oversight and an aggressive timetable for completion (e.g. 90 days for unidirectional issues) so that all manufacturers can participate fairly and fully in both Unidirectional Plug and Play and Bi-Directional Plug and Play.

Pursuant to Section 1.1206(b) of the Commission's Rules, an electronic copy of this letter is being submitted to the Secretary's Office and to the above referenced people. I am also copying as a written *ex parte* letter Chairman Powell and Commissioners Abernathy, Adelstein, Copps and Martin. Please inform me if any questions should arise in connection with this filing.

Respectfully submitted,

/s/ Jeffrey Lawrence

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Intel Corporation

Cc:

Chairman Michael Powell  
Commissioner Kathleen Abernathy  
Commissioner Jonathan Adelstein  
Commissioner Michael Copps  
Commissioner Kevin Martin

Paul Gallant  
Anthony Dale  
Erin Boone  
Rick Chesson  
Bill Johnson  
Susan Mort  
Mary Beth Murphy  
Amy Nathan  
Robert Pepper